

1 Archie S. Robinson, Esq. [SBN 34789]  
2 asr@robinsonwood.com  
3 ROBINSON & WOOD, INC.  
4 227 North First Street  
5 San Jose, CA 95113  
6 Telephone: 408/298-7120  
7 Facsimile: 408/298-0477

8 Attorneys for Plaintiff  
9 DEBORAH J. THOMAS

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION

12 DEBORAH J. THOMAS,

No. CV 07-04392 CW

13 Plaintiff,

**DECLARATION OF DEBORAH J.  
THOMAS IN SUPPORT OF  
OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS**

14 vs.

15 THE WALT DISNEY COMPANY, WALT  
16 DISNEY STUDIOS, DISNEY PRESS,  
17 PIXAR ANIMATION STUDIOS, WALT  
18 DISNEY FEATURE ANIMATION, WALT  
19 DISNEY PICTURES, DISNEY  
20 ENTERPRISES, INC. and DOES 1  
through 100, Inclusive,

Date: January 31, 2008  
Time: 2:00 p.m.  
Department: #2  
Judge: Hon Claudia Wilken

21 Defendants.

22 I, Deborah J. Thomas, declare as follows:

23 1. On April 6, 2001, I submitted my original and novel story, "Squisher  
24 the Fish" to one of Defendants' departments, Disney Press. I marked my letter  
25 "submission." I included a cover letter with the submission. Attached as Exhibit A is a true  
26 and correct copy of the cover letter.

27 2. The story I submitted to Defendants was slightly different than the  
28 story registered with the copyright office. The story submitted differs slightly in that the  
first page, second paragraph reads: "[G]uarded by his parents until the egg hatched out of the

1 the fry" as opposed to "[O]ut of an egg hatched this tiny yellow fish." Attached as  
2 Exhibit B is a true and correct copy of the story submitted to Defendants on April 6, 2001.

3  
4 3. On June 22, 2001, I received a letter from Defendants claiming that  
5 it was not their business practice to accept creative submissions. Attached as Exhibit C is  
6 a true and correct copy of that letter.

7 4. On July 31, 2003, I downloaded an article about Finding Nemo from  
8 one of Disney's websites. In the article, it is discussed that William H. Macy was  
9 originally the voice of Marlin, when "Finding Nemo" was "still a fairly dark film."  
10 Eventually a decision was made that the movie needed to be "radically lightened up."  
11 Attached as Exhibit D is a true and correct copy of the article.

12 5. On January 8, 2008, I downloaded from the website <http://xpress.sfsu.edu/archives/arts/000076.html> an article interviewing Lee Unkrich, co-  
13 director of the movie, "Finding Nemo." In the article he discusses that in the original  
14 conception of the movie when Nemo is taken away to the aquarium he does not want to  
15 go home. Attached as Exhibit E is a true and correct copy of the article.

16  
17 6. Attached as Exhibit F, is a true and correct copy of pages from  
18 Defendants' copyright deposit registered under number VA 1-190-553. The pages reflect  
19 artwork that depicts characters Gill and Nemo as "King of the tank" or "King for the day."

20 7. I have noticed a variety of merchandise describing the character  
21 Nemo as "King of the tank" or "King for the day." One example is a pair of pajamas from  
22 the website:

23 <http://www.plunderhere.com/auction/cgi-bin/auction/view?cmd=view&listingID=280875>

24 Attached as Exhibit G is a true and correct copy of a photo from the above website.  
25  
26  
27  
28

1  
2 8. On May 25, 2007, I visited a "Finding Nemo" website and played a  
3 video game entitled "Pearl's Puzzles." After completing the game, the screen read "You  
4 did it! KING OF THE TANK". I have attached as Exhibit H a true and correct copy of  
5 the image I captured from my computer screen on May 25, 2007.  
6

7 I declare under penalty of perjury that the above is true and correct to the best of  
8 my knowledge and belief. Executed on January 10, 2008 in Gainesville, Florida.  
9

10   
11 Deborah J. Thomas  
12

13 @PFDesktop\..ODMA\MHODMA\IMANAGE\IMANAGE\425902;1  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28